

AUTO COLLISION REPAIR LICENSING ADVISORY BOARD

MEETING MINUTES FOR AUGUST 26, 2009

Members present: Dave Reynolds, Chairman

Richard Bernstein, Legal Counsel – DBR

Dave Doucet, Rhode Island State Police

Thomas Broderick, DBR

Scott Wendel, Amica Insurance Company

Gerry Galleshaw, Public Member

Members absent: Dan Coleman, Fournier & Coleman, Auto Glass Industry

Paul Kiernan, of Paul Masse Dealership

Others present: Kim Precious, Implementation Aide, DBR

Randy Botelho, Reliable Auto

Jina Petrarca, Providence Auto Body

Larry Alan, Nationwide Insurance Company

Eric Chase, LaChase Auto

MEETING CALLED TO ORDER AT 10:30 A.M.

NEW BUSINESS

Minutes

DR: Approval of previous meeting. Asked any questions. Motion to pass.

RB: One of our new members was not here last meeting. We may not have a quorum.

DR: Asked Board members who just arrived to review minutes so we can vote. Motion to approve minutes.

RB: Seconded, All in favor.

New Member Introductions

DR: Welcome Scott Wendell – AMICA replacing Charles Nystedt, and Tom Broderick - DBR inspector replacing Jeanne McCarthy.

RB: Duly appointed by the Governor. It is official.

DD: Why did it take so long to replace JMC?

RB: It has always been the Departments intent to replace Jeanne. Tom has done inspections for Commercial Licensing, and Kim is the de facto secretary. We are now getting to the point of clearing up a lot of back issues with complaints. On a further note: Complainants on their own have been going to ABARI, and its efforts have been

adjudicated fairly. One of the issues we have is we don't have any kind of formal relationship with ABARI. There is no underlying statute or regulation. In the future when ABARI becomes more institutionalized as a trade association, there may be some legislative recognizing them as an alternative mediation source.

Randy: ABARI has handled and resolved two complaints. Also, the Advisory Board by law is able to get involved with complaints, as a third party that is an expert in the industry to help resolve complaints.

DR: It works for the insurance industry as well because they are represented on the Board also.

RB: Right now Commercial Licensing gets the complaints, and that is a good process. I think if the Board gets involved, it would slow things down because it only meets once a month.

DR: I disagree, The Board understand estimates, etc, which is better to resolve more quickly.

RB: The complaint process could be studied by a subcommittee and make recommendations to the Director.

Slide Show of Equipment for inspection purpose

Randy: Has brochures with pictures of frame machines and equipment to help Tom on inspections; will leave for Tom's review.

OLD BUSINESS

Motorcycle requirements

Randy: Presented Kim with copy of the 2005 special use motorcycle requirements as previously asked for.

Regulation 3

DR: Dave could not make CLR 3 meeting, asked Richard's view. Requested transcript of hearing.

RB: Subsequent info can be filed by either industry by 9/2/2009. Hearing officer has to get everything in by 9/4/2009. Insurance industry assertions were they did not believe there was a sufficient process to determine the reasonableness of the rates.

DR: Specifically what about the rates?

RB: On what they were based, they felt there was a dearth of information as to how the new storage rates were developed. The

Auto Body industry argued the Insurance Industry was represented on the subcommittee and this was a concurring effort to come up with a revised regulation and the auto body's assertion was it's a little late that the insurance industry certainly had time before to raise this issue.

DR: Just for the record what participation did the auto body industry had on the original rates in 1994 during the term of Barry Hittner?

RB: 1994 - that was before my time. I have no information.

DR: I have received that answer every time I have asked that question. There was never input from the business community that was governed by those regulations.

LA: Question of the original rates, I believe that a commission or study group was formed, and the rates were a result of that.

Randy: There was a task force that the rates did come out of but it did not have anyone on it from the auto body industry. I have a list of the people on that committee. I also have a copy of the minutes from the November 30, 2004 auto body advisory board meeting in which David St. Germain replied to the issues as follows, "A copy of the proposed RI auto storage rates schedule and revised regulation was being passed out to all in attendance." After a discussion, the board

voted to mirror the scheduled rates currently being utilized by the PUC. Mr. St. Germain agreed and stated, “he would have final revision prepared by next board meeting.”

LA: Randy’s testimony yesterday reflects that the rate was originally to reflect that of the PUC. Since then there has been a consent agreement at the PUC, which only some of the licenses have signed.

RB: Issue in question seems to be whether or not the process was adequate in determining the rate.

LA: A lot of that goes to the original language in the statute, which some would read, that it is the department’s responsibility to establish a process for creation of the rate, and the concern is that there isn’t one.

RB: That will be up to the hearing officer to decide. One letter that was received was asking for a formal rate hearing and I can’t speak to that but I don’t believe the statute requires that. That would call for actuaries and it would be a very long and formal process.

Randy: That was reviewed at the subcommittee level because I remember bringing up the fact that why would every shop have the same rate since real estate in Providence and real estate elsewhere in RI would be different ... the issue of every shop filing their own rate would be repetitive.

DR: That would be a nightmare. That's why most insurance representatives present at that time agreed that one rate for all body shop would be more likely.

RB: One letter from an Insurance company did point out that even determining one rate would require a rate hearing process. My personal view, not as a member of DBR, or this board, is that DBR's, Commercial Licensing division is not a rate-setting environment not only for storage rates but also labor rates. I think that it's DBR's position that it is neither equipped nor statutory mandated to apply formal rate making processes to anything in auto body.

DR: Just to point out that the department saw fit to enforce the pre-existing regulations for the last 15 years and made sure no body shop exceeded those rates.

Body Shop Application

DR: On body shop application, did everyone get a copy?

KP: Added reminder to licensees that by 2012 they have to be compliant with Regulation 16- Motor Vehicle Body Repair Technician Certification, I included an affidavit for shops to fill out and submit certifying employees are certified. Another change; was to the Criminal History Record. CHR required for owners and managers.

Out-of-state CHR required if they do not reside in RI, as well as a CHR from RI.

DR: I know the regulation was revamped specifically looking for CHR from managerial people, cannot require it for all employees. Question on conviction statement? What does it mean? Can we ask all this? Quote what the regulation/law states so we don't over step the boundaries. Why is Licensee responsible for acts of agents? Why would I be responsible for guy that tows to my shop?

DD: If they are representing your shop, they are acting on your behalf.

DR: Don't remember this being on application before.

LA: Does anyone know why is this on application?

Randy: This came up when David St. Germain was here, there was a situation once where the owner of a shop was never available and his mother was running the day-to-day dealings with the customers. There was a problem; the consequence was the revised regulation to go after any person acting in company's behalf. If there is a problem it would need to be challenged in court, nobody has challenged yet.

LA: Recommends this is one of the situations to be reviewed with Richard.

Randy: Wording under Fire safety “check” - change to “approval.” I heard a renewal Card will go out to the licensee and inform them to go to a website to download the application. I suggest you should probably get out ASAP.

JPK: Question on full collision affidavit question, is the self-certification a requirement?

KP: No, just for our information. Randy suggested it would be good for us to know.

Randy: Added resistance welder to full collision affidavit as necessary equipment. Regulation states that you must have equipment capable of producing current manufacturer specifications. Resistance welder has been around for well over six years now.

DR: Very expensive and essential piece of equipment. Leave it on. At the very least it will make them aware of what they need to have. This is where certified techs come into play. A cert tech will know he needs this.

JPK: Shops may need time to comply.

DR: Make a motion to incorporate application.

DD: Seconded. All in favor.

Technician Certification

KP: Question...The Tech Cert. regulation states 1 in every 5 employees, what if there are 8 employees?

DR: Round Off.

Regulation 4

DR: Suggestions for change of regulation 4, subcommittee?

JPK: Subcommittee trying to get dates to meet.

Randy: Definition of motor vehicle body, it no longer meets safety standards.

KP: Reg 4 SEC 4 (c) Financial Responsibility. Does it mean applicant must show proof they have enough money to operate or does it mean proof of insurance as in section 4 (D)?

DD: It means Insurance.

Randy: Minimum Value also should be looked at. This was first written in the 1970's and \$10,000 is not enough to operate a shop today.

DR: Motion to adjourn.

DD: Seconded. All in favor.

Meeting was adjourned at 11:55 AM